IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.733 OF 2005
IN
EXECUTION APPLICATION NO.175 OF 2004
IN
CASE NO.ABN/CCIV/518 OF 2003

Prasad co-op.Credit Society Ltd. ..Plaintiffs.

V/s.

Arvind T. Tripathi & Ors. ..Defendants.

And

Tribhuvan T.Tripathi. ..Applicant.

Mr.P.J.Pandit for applicant.
Mr.Vivek Phadke, for Plaintiffs.

CORAM: A.M.KHANWILKAR,J

DATE : AUGUST 3, 2005.

P.C. :

1. Heard counsel for the parties.

2. Counsel for the applicant fairly submits that although the applicant may be justified in contending that in law, attachment order in respect of the disputed property cannot continue, even then, the applicant is willing to pay sum of Rs.7,500/- per month to the Judgment Creditor till the final instalment to satisfy the decreetal amount. It is agreed that this payment will be in addition to the amount, which is payable by the Judgment Debtor No.1

in the sum of Rs.3,000/- pursuant to the order passed in that behalf by the executisng Court. In other words, both the abovesaid payments will have to be reckoned for the purpose of payment received towards the decreetal amount. This arrangement is suggested by the applicant who incidentally is the father of the Judgment Debtor, as his moral obligation.

3. On the basis of the above arrangement suggested by the applicant, which is acceptable to the Judgment Creditor as is stated by the counsel for the Judgment Creditor on instructions of Mr.Suresh Nikam, authorised Officer of the Bank, the application is disposed of on the above terms. The assurance /oral undertaking given by the applicant before this court in the above terms is accepted.

4. Accordingly, the chamber summons is disposed of on the above terms by raising the order of attachment dated 21st May, 2004, in respect of shop No.3, Mahudi Darshan, Behind Dattani Park, Western Express Highway, Borivali(east), Mumbai and movable properties. The applicant undertakes to pay amount at the rate of Rs.7,500/- p.m., commencing from 1st September, 2005. Each installment due should be made over to the Judgment Creditor before 10th of every

English Calender Month. The undertaking so given is accepted.

5. The chamber summons is disposed of on the above terms.